

**DURHAM, NORTH CAROLINA
MONDAY, APRIL 5, 2004
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Marcia Conner, Assistant City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read the following proclamations: Fair Housing Month, Community Development Week [April 12-17, 2004], Child Abuse Prevention Month and Sexual Assault Awareness Month.

Mayor Pro Tempore Cole-McFadden read a proclamation declaring April as Durham Youth Service Month and presented lapel pins to youth with the Volunteer Services Bureau.

Council Member Best congratulated the Odyssey of the Mind Teams of Bethesda Elementary School for winning 1st and 3rd place in the regional competition held in Raleigh and presented each winner and coach with a certificate and lapel pin: 1st Place--Fantastic Art: Kourtney Adams, Andrew Barksdale, III, Jaylan Rhea, Naycia Russell, Angel Santillan, Miraha Smith and Montana Walker. 3rd Place--Featured Creature: Ryan Bond, Steven Cockerham, Courtney Johnson, Shona Smith, Brittany Tacklin, Quneshia Waddell and April Winters. Coach - Avril Caldwell, Michelle Stott; Tomeka Ward-Satterfield.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner commented on Supplemental Item #49 [Amendment of Non-City Agency Agreement for Doc Arts, Inc. d/b/a Full Frame Documentary Film Festival]; provided a map for Consent Agenda Item #13 [Covenant and Maintenance License Agreement with L H Boulevard, LLC] and a revised ordinance for General Business Agenda Item #38 [Major Special Use Permit – Grove Park Fire Station #8].

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority items was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

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Mayor Pro Tempore Cole-McFadden made comments on the graduation ceremony she attended for Housing for New Hope.

Council Member Catotti commented on the Marlynda Bodison issue. For clarification, she noted that this matter came before Council at its February 19, 2004 Work Session and the issue before them was whether to foreclose on this loan or to forgive \$866 in interests, Council was not aware of any delinquency in the property tax at that time and did not authorize any additional rehabilitation work. Also, Council Member Catotti requested that this item be added to the April 8, 2004 City Council Work Session agenda.

Council Member Best commented on the Marlynda Bodison issue requesting staff to revisit policy and procedures and the criteria involved regarding the rehab program to see what procedures need to be put in place to make sure this doesn't happen again.

Council Member Brown spoke in support of this item being discussed at the Work Session noting the renovation plan issue and entire loan agreement that was passed recently should be revisited.

Council Member Clement noted mistakes were made and Council should look at the entire process to see what can be done to remedy this situation on Thursday.

Council Member Stith noted the issue of public trust has been shattered and it was wrong from the beginning to forgive the debt and to support the funding for this item.

City Manager Conner noted a presentation will be given at the April 22, 2004 City Council Work Session on the rehab program.

Council held discussion on the issue of Marlynda Bodison not signing documents incidental to this transaction.

City Manager Conner stated this afternoon there was a closing scheduled on the loan itself and one of the provisions in the attachments is a waiver agreement. There's a requirement that the individual, who owns this home and the mortgage is placed on the home by the City, they must live in that home until the duration of the loan and Ms. Bodison questioned that as a requirement of the loan agreement stating it was not in the original loan agreement that she had made under Neighborhood Housing Services. Neighborhood Housing Services, since I was not here, to the best of my knowledge, was a non-profit in that the City acquired a number of loans from them. As a result, the City acquired those loans [sub-recipient, non-city agency agreement] back in the 1990s and Ms. Bodison's loan was one of those loans and would check to see if the original loan agreement had that provision. Today, she did not sign that portion of the agreement so a conference call was held earlier today between Housing and the City Attorney's Office in terms of does it make it a valid loan agreement or it doesn't and there are other provisions that may prevent the City from entering into that loan agreement at this time.

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Council Member Clement asked is there a valid contract between the City and Ms. Bodison.

Assistant City Attorney Patrick Baker noted based on the information just provided by the City Manager there is not a valid and enforceable contract.

Mayor Bell made comments in support of resolving this issue at the Work Session.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items #43 [Queens Ferry Court]; #44 [Isaac Woods]; #45 [Waiver of Right of First Refusal to Purchase YMCA Childcare Center Property] and #47 [Sunset/Restructuring Panhandling] were pulled.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: TRANSMITTAL OF AUDIT SERVICES OVERSIGHT COMMITTEE REPORTS: - WEED AND SEED GRANT COMPLIANCE AUDIT; CHANGE ORDERS COMPLIANCE AUDIT AND QUARTERLY UPDATE - AUDIT RECOMMENDATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept the Audit Services Oversight Committee Reports approved at their February 23, 2004 meeting was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

MOTION by Council Member Stith seconded by Council Member Catotti to approve the City Council Minutes for the March 1, 2004 Regular City Council Meeting; and

To approve City Council action taken at the March 4, 2004 City Council Work Session was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: DURHAM CONVENTION & VISITORS BUREAU –
NOMINATION/APPOINTMENT**

MOTION by Council Member Stith seconded by Council Member Catotti to appoint Brian McGhee to the Durham Convention & Visitors Bureau (a local Tourism Development Authority) to represent Lodging - Full Service or Conference Center as recommended by the DCVB Board of Directors - term expiring October 31, 2005 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION -
APPOINTMENTS**

MOTION by Council Member Stith seconded by Council Member Catotti to reappoint Frederick H. Pugsley and Howard A. Partner to the City-County Appearance Commission with terms expiring on April 1, 2007 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM AREA TRANSIT AUTHORITY - APPOINTMENT

MOTION by Council Member Stith seconded by Council Member Catotti to appoint Reginald L. Jackson to the Durham Area Transit Authority as a Regular Member with a term expiring on March 1, 2005 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amt
Joi Abraham	Aerobics/Dance Instructor	P&R	\$ 3,000.00
Meera Goyal	Arts Instructor	P&R	\$ 800.00
Trina Hymes	Aerobics Instructor	P&R	\$ 1,300.00

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Norvell Brown	Tennis Instructor	P&R	\$ 750.00
Freddrick Sidberry	Official	P&R	\$ 2,000.00
Le Scot	Official	P&R	\$ 1,500.00
Roy Williams	Official	P&R	\$ 2,800.00
Anthony Robinson	Official	P&R	\$ 2,800.00
James Hawley	Official	P&R	\$ 2,800.00
Chris Chamis	Sound Technician	P&R	\$ 150.00
Jesse O. Brown	Official	P&R	\$ 2,800.00
Deryl Boyd	Official	P&R	\$ 1,800.00
Christopher Smith	Official	P&R	\$ 3,200.00
Tonya Daye	Official	P&R	\$ 2,000.00
Michele Christopher	Official	P&R	\$ 1,800.00
Bernard Greene	Official	P&R	\$ 2,800.00
Durham Marriott	Fair Housing Conference Luncheon	Hu Rel	\$ 2,000.00
Kimley Horn & Associates	Traffic Engineering Service-Duke University Request Revised Fee Schedule	PW	\$ 12,000.00
The New Synergy	Engineering study-Fletcher Hall Carolina Theater- amendment to Master Contract	Gen Ser	\$ 24,780.00
The Housing Authority of Durham	Contract Amendment extending contract expiration date from March 31, 2004 to May 15, 2004	Housing	na
Polytech Inc	On call service from Master agreement for engineering consulting - Long Meadow Pumphouse	Gen Ser	\$ 13,940.00
SEEDS	Amendment 1-After school programs- extending expiration date and additional funds of \$2,384.00	Housing	\$ 2,384.00
Center for Documentary Studies	Amendment 1-After school programs- extending expiration date and additional funds of \$2,384.00	Housing	\$ 2,384.00
PROUD Program	Amendment 1-After school programs- extending expiration date and additional funds of \$2,384.00	Housing	\$ 2,384.00

SUBJECT: BIDS – ESTIMATED ANNUAL REQUIREMENTS FOR THERMOPLASTIC PAVEMENT MARKING MATERIAL - SUSANNAH DOBBS COMPANY, LLC DBA DOBCO

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Susannah Dobbs Company, LLC dba DOBCO in the amount of \$108,975 for furnishing the City with its Estimated Annual Requirements for Thermoplastic Pavement Marking Material; and

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To authorize the City Manager to enter into a contract with Susannah Dobbs Company, LLC dba DOBCO in the amount of \$108,975 for furnishing the City with its Estimated Annual Requirements for Thermoplastic Pavement Marking Material; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BIDS – FIRE AND RESCUE PUMPER - M & W FIRE APPARATUS

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from M & W Fire Apparatus, in the amount of \$289,284 for providing the City with a Fire and Rescue Pumper; and

To authorize the City Manager to enter into a contract with M & W Fire Apparatus, in the amount of \$289,284 for providing the City with a Fire and Rescue Pumper; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – RENAISSANCE CENTER III (D03-657)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan, submitted by The John R. McAdams Company, Inc., on behalf of Midland Atlantic Development Company, to construct a 43,700 square foot office and retail building on 2.88 acres, located on the northeast corner of Fayetteville Road and Village Circle Way, south of I-40, and is zoned MU (D) and F/J-B. Parcel ID 196406; 196406; 150110; and 197275; PIN 0718-04-82-0827, 0718-04-82-0969, 0718-04-83-1557, 0718-04-83-2326, City Atlas: Page 49, Section D-4 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT FOR MUIRFIELD VILLAGE (D03-563) – R L HORVATH ASSOCIATES, INC. ON BEHALF OF BENNIE GLENN SIGNET

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**GROUP REALTY ASSOCIATES – SOUTHEASTERN SIDE OF
VICTORY BOULEVARD AND EAST OF GUESS ROAD**

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan and preliminary plat for 96 townhouse lots on a 36.81 acre site, zoned RM-8(D) and Eno-B, with a landscape modification to allow 120 feet between two street trees, due to sight distance triangles and to minimize the fill in the floodway fringe was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH D. R.
HORTON, INC. - CARILLON**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a water and sewer extension agreement with D. R. Horton, Inc. to serve Carillon was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH
HAIRSTON BUILDERS, LLC - PEARL KNOLL**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a water and sewer extension agreement with Hairston Builders, LLC to serve Pearl Knoll was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: COVENANT AND MAINTENANCE LICENSE AGREEMENT
WITH LH BOULEVARD, LLC - PATTERSON PLACE**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a Covenant and Maintenance License Agreement with LH Boulevard, LLC for Patterson Place was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: GRANT PROJECT ORDINANCE AMENDING ORDINANCE 12900
FOR WIA FEDERAL EMPLOYMENT FUNDS**

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MOTION by Council Member Stith seconded by Council Member Catotti to adopt a City of Durham Employment and Training Grant Project Ordinance amending ordinance #12900 by an additional \$91,638 in Federal Employment and Training grant funds thereby increasing the 2003-2005 City Employment and Training Budget for a revised total of \$2,158,395 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12928

SUBJECT: AMENDMENT #1 TO CONTRACT FOR ENGINEERING SERVICES FOR THE BROWN AND WILLIAMS WATER TREATMENT PLANTS - HAZEN AND SAWYER, P.C.

MOTION by Council Member Stith seconded by Council Member Catotti to adopt the resolution exempting engineering services for the Williams Water Treatment Plant from G.S. 143-64.31; and

To authorize the City Manager to execute Amendment #1 to the Contract for Engineering Services for the Brown and Williams Water Treatment Plants with Hazen and Sawyer, P.C. in the amount of \$70,500; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the amendment and are consistent with the general intent of the version of the amendment approved by City Council was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9095

SUBJECT: SHIRLEY STROBEL APARTMENTS -1996 HOUSING BOND FUNDING TO NEXT STEP HOUSING, INC. – 1711 LIBERTY STREET

MOTION by Council Member Stith seconded by Council Member Catotti to approve an additional \$170,000 in 1996 Bond funds to Next Step Housing, Inc. for the development of Shirley Strobel Apartments; and

To authorize the City Manager to execute a Construction/Permanent Loan Agreement and other related legal documents with Next Step Housing, Inc., in an amount not to exceed \$470,000 of 1996 Housing Bond funds; and

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To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: BARNDOR PROPERTIES REHABILITATION LOAN
MODIFICATION – 106 N. HYDE PARK AVENUE**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to modify the loan agreement with Barndoor to change the scope of the contract from four units to three units, deleting the unit located at 106 North Hyde Park Avenue; and

To reduce the loan amount from \$200,000 to \$137,347 which accounts for the \$62,653 cost of the deleted unit; and

To extend the contract construction period from May 31, 2003 to July 31, 2004; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the amendment and are consistent with the general intent of the version of the amendment approved by City Council was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: KERRWOOD PHASE II – SINGLE FAMILY HOMEOWNERSHIP
PROJECT - \$1,379,500 – HOUSING BOND FUNDS –
DEVELOPMENT VENTURES INCORPORATED - HINSON
DRIVE, WARING STREET AND DAVINCI STREET**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a Construction Loan Agreement with Development Ventures Incorporated in an amount not to exceed \$1,379,500 from Housing Bond funds; and

To execute related loan closing documents; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: APPLICATION FOR NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION GRANT FOR THE CITY OF DURHAM
PEDESTRIAN PLAN**

MOTION by Council Member Stith seconded by Council Member Catotti to approve a grant application to North Carolina Department of Transportation for the City of Durham Pedestrian Plan was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: GRANT PROJECT ORDINANCE FOR STREAM RESTORATION
AND STORMWATER TREATMENT AT DURHAM CENTRAL
PARK - NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES**

MOTION by Council Member Stith seconded by Council Member Catotti to accept the water resources grant of \$285,954 from the North Carolina Department of Environment and Natural Resources, Division of Water Resources; and

To adopt the grant project ordinance to make funds available for design and construction of the project prior to reimbursement by the State was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12929

SUBJECT: DURHAM CONVENTION & VISITORS BUREAU

MOTION by Council Member Stith seconded by Council Member Catotti to receive a presentation on the Impact Analysis of Visitor Related Taxes was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM HOUSING AUTHORITY

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report on the Use of Local Contractors, Residency Goals and Statistics was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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SUBJECT: FACILITY CONDITION ASSESSMENT - CARTER & BURGESS, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to receive a Facility Condition Assessment Report from Carter & Burgess, Inc. was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: HOUSING CODE ENFORCEMENT

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report on Housing Code Enforcement was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: 2003 ANNUAL REPORT – DURHAM BICYCLE AND PEDESTRIAN ADVISORY COMMISSION

MOTION by Council Member Stith seconded by Council Member Catotti to receive the 2003 Annual Report from the Durham Bicycle and Pedestrian Advisory Commission was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: NED KENNINGTON

MOTION by Council Member Stith seconded by Council Member Catotti to hear comments from Ned Kennington regarding standard issues for 25 mph speed humps in their neighborhood was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: 2005 LEGISLATIVE AGENDA

MOTION by Council Member Stith seconded by Council Member Catotti to receive a presentation on the 2005 Legislative Agenda was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: LICENSE AGREEMENT WITH DURHAM COUNTY -
PLAYGROUND ENCROACHMENT IN THE SEMINARY STREET
RIGHT-OF-WAY**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a license agreement with Durham County for a Playground Encroachment in the Seminary Street Right-of-Way was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: POOPER SCOOPER LAW

MOTION by Council Member Stith seconded by Council Member Catotti to direct staff to prepare an agenda item and ordinance requiring that the owner, keeper or walker of any animal immediately remove the animal's excrement from City Parks and City Right-of-Ways" was approved at 7:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: QUEENS FERRY COURT

Council Member Best asked staff to provide an update. Also, he commented on the discussion held at the work session regarding the contractor putting the sidewalk closer to the right-of-way without disturbing the berm or the property of the homeowner.

As indicated at the work session, Planning Director Frank Duke noted it would be the responsibility of the contractor to contact the Planning Department so that staff can identify the most appropriate location and he noted that he hasn't heard from him yet.

Lee Murphy, of the Public Works Department, noted the developer has already been contacted verbally to do no work until they contact staff for details.

MOTION by Council Member Stith seconded by Council Member Best to discuss the sidewalk issues associated with development on Queens Ferry Court was approved at 7:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: ISAAC WOODS

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LaVonia Allison urged Council to place this item on the April 8, 2004 City Council Work Session agenda due to incomplete information.

Mayor Bell spoke in support of holding this item until the City Manager is ready to bring a specific recommendation to Council.

Council Member Stith asked the City Manager about the timeliness for a recommendation.

City Manager Conner noted one more meeting would need to be scheduled before coming back to Council with a resolution concerning this matter.

Council Member Stith requested the administration to provide an update at the Work Session.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive an update from the Administration on the status of sewer line and water line for Creekside Elementary School was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WAIVER OF RIGHT OF FIRST REFUSAL TO PURCHASE YMCA
CHILDCARE CENTER PROPERTY**

Council Member Stith asked questions that were answered by staff relative to the impact of right of first refusal being an investment or donation of property and value of property.

General Services Manager Mark Greenspan noted the City is the underlying property owner of the YMCA site and would be donating the property for the Operation Breakthrough Head Start. Also, he informed Council that he would provide information on the value of the property at the Work Session.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to adopt a resolution waiving the City's right of first refusal to purchase the YMCA Childcare Center property, including all related easements was approved at 7:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9094

SUBJECT: SUNSET/RESTRUCTURING PANHANDLING

Council Member Stith asked staff for clarification on what is coming back to Council concerning this item.

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MOTION by Council Member Stith seconded by Council Member Catotti to direct staff to prepare an amendment to City Code Section 12-28, "Begging or Soliciting Alms or Contributions" was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: APPROVAL OF THE PROPOSED AMENDMENT TO THE SUB-RECIPIENT (DURHAM COMMUNITY LAND TRUSTEES, INC.) PROJECT LOAN AGREEMENTS

Council Member Stith made comments on having the proper controls in place to monitor this program.

MOTION by Council Member Clement seconded by Council Member Catotti to approve the proposed amendments to the four sub-recipient loan agreements with Durham Community Land Trustees, Inc.; and

• Jackson Park	HOME Grant	\$120,000
	HOME Loan	<u>\$218,644</u>
		\$338,644
• WEHO II	HOME Loan	\$243,000
• WEHO III	HOME Grant	\$150,000
	HOME Operating Grant	<u>\$ 83,250</u>
		\$233,250
• WEHO IV	HOME Loan	\$129,750
	HOME Grant	<u>\$120,000</u>
		\$249,750
TOTAL		\$1,064,644

To authorize the City Manager to modify the agreements before execution provided that modifications do not increase the dollar amount of the agreements and the modifications are consistent with the general intent of the existing version of the agreements was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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SUBJECT: COUNCIL TO END HOMELESSNESS IN DURHAM

Council Member Stith made comments on the budget for this item and expressed concern with not having the details before committing to funds.

City Manager Conner made comments on the \$50,000 [\$25,000 from the City and \$25,000 from the County] requested by Terry Allebaugh and outlined reason for the amount up to \$25,000 stating staff needs to refine the budget request with the County of Durham. She reported the funding would be utilized to help facilitate the process and develop the report. Also, she noted the Interlocal agreement and the funding request would come back to Council for approval.

Council Member Best expressed concern with the amount of up to \$25,000 and requested more definite details of what the funding would be used for.

Several Council Members spoke in support of this item.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt a “Resolution of the Durham City Council Endorsing Initiation of Plan to End Chronic Homelessness in Durham”; and

To authorize the creation of a Steering Committee to develop a 10 year plan to end homelessness in Durham; and

To authorize the City Manager to direct appropriate staff to serve on the Steering Committee; and

To authorize the City Manager to negotiate an inter-local agreement with Durham County to be brought back to the City Council for approval, with projected City support in an amount not to exceed \$25,000 was approved at 8:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Stith. Noes: Council Member Best. Absent: None.

Resolution #9096

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

**SUBJECT: PUBLIC HEARING AND ADOPTION OF ORDERS
AUTHORIZING \$10,000,000 TWO-THIRDS BONDS**

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

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Council Member Stith expressed concern that funds identified to handle the debt service would come out of the General Fund noting citizens should have an opportunity to vote on these worthy projects and not continue to spend in the face of a significant deficit.

MOTION by Council Member Clement seconded by Council Member Catotti to receive public comments on the Adoption of Orders Authorizing \$10,000,000 Two Thirds Bonds; and

To adopt the orders authorizing not exceeding \$6,800,000 Street Improvement Bonds, \$1,200,000 Parks and Recreation Facilities Bonds, \$1,000,000 Municipal Building Bonds, \$500,000 Sanitary Sewer Bonds and \$500,000 Public Safety Communications Bonds was approved at 8:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Members Best and Stith. Absent: None.

NOTE: FUTHER ACTION WAS TAKEN ON THIS ITEM LATER IN THE MEETING.

SUBJECT: LAND USE PLAN AMENDMENT - HOPE VI – BLACKNALL, GOLEY (A04-02) – THE COMMUNITY BUILDERS, INC. C/O THOMAS R. DAVIS – NORTH OF ANGIER AVENUE, EAST OF S. GOLEY STREET AND WEST OF S. BLACKNALL STREET

To receive public comments on the Hope VI - Blacknall, Goley (A04-02) Plan Amendment; and

To adopt a Resolution to change the Land Use designation on the Future Land Use Map of the East Central Durham Plan from Commercial to High Density Residential.

Planning Department recommendation: Approval

Planning Commission recommendation: Approval (13-0)

City/County Planning Director Frank Duke briefed Council on the staff report commenting on the amendment justification noted by the applicant that the site does lie within ¼ mile of a planned Triangle Transit Authority regional rail station and is consistent with the stationery guidelines approved by Council for encouraging mass transit in the area. He noted the plan amendment is consistent with the East Central Durham Plan, commented on road and school impacts and stated staff is recommending approval.

Mayor Bell opened the public hearing.

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this item. He noted the applicant is seeking to continue the revitalization occurring under the Hope VI program to help revitalize, rebuild and reinvigorate certain locations in Durham. He

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commented on the site and the decrease in traffic that would be generated from this proposal urging Council to support this effort.

No one spoke in opposition to this item.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to receive public comments on the Hope VI - Blacknall, Goley (A04-02) Plan Amendment; and

To adopt a Resolution to change the Land Use designation on the Future Land Use Map of the East Central Durham Plan from Commercial to High Density Residential was approved at 8:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9097

SUBJECT: LAND USE PLAN AMENDMENT – ALSTON AVENUE AND ED COOK ROAD (A04-03) – CYPRESS TREES DEVELOPERS, LLC C/O PHIL LAYTON – SOUTH OF RUSTICH DRIVE, NORTH OF SOHI DRIVE AND BETWEEN S. ALSTON AVENUE AND ED COOK ROAD

To receive public comments on the Alston Avenue/Ed Cook Road Plan Amendment; and

To adopt a Resolution to change the Land Use designation on the Future Land Use Map of the South Central Durham Plan from Industrial to Medium Density Residential.

Planning Department recommendation: Approval

Planning Commission recommendation: Denial (13-0)

City/County Planning Director Frank Duke acknowledged that Council Member Brown received a request from the applicant to defer this item to the May 3, 2004 City Council Meeting to enable staff to complete an analysis on the adequacy of the industrial land.

Mayor Bell opened the public hearing.

Craigie Sanders, representing the applicant, urged Council to continue this item to the May 3, 2004 City Council Meeting.

Jenny Hoenig, of 1530 Ed Cook Road, spoke in support of deferring this item.

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MOTION by Council Member Clement seconded by Council Member Catotti to continue the public hearing to the May 3, 2004 City Council Meeting was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: LAND USE PLAN AMENDMENT – ROXBORO ROAD PROFESSIONAL CENTER (A04-04) – JOHN R. MCADAMS COMPANY, INC. C/O MARY BEERMAN – ROXBORO ROAD BETWEEN DENFIELD STREET AND PACIFIC AVENUE

To receive public comments on the Roxboro Road Professional Center (A04-04) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the North Durham Plan from Office to Commercial.

Planning Department recommendation: Approval

Planning Commission recommendation: Approval (13-0)

City/County Planning Director Frank Duke briefed Council on the staff report commenting on the amendment justification and noted the request is consistent with the North Durham Plan, there will be no school impacts and will result in a decrease in traffic, staff and the Planning Commission have recommended approval.

Mayor Bell opened the public hearing.

Mary Beerman, the applicant, spoke in support of this item noting this will be an improvement and will have a lesser impact than the current plan designation. Also, she urged Council to approve the proposed amendment.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Brown to receive public comments on the Roxboro Road Professional Center (A04-04) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the North Durham Plan from Office to Commercial was approved at 8:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9098

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**SUBJECT: REZONING – NORTHGATE PARKING LOT (P03-45) –
BATTLEGROUND RESTAURANT GROUP, INC. – NORTH SIDE
OF WEST CLUB BOULEVARD, EAST OF NORTH GREGSON
STREET**

To conduct a public hearing and receive public comments on rezoning Case P03-45 (Northgate Parking Lot); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-45 out of R-8 and placing same in and establishing same as OI-2(D).

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Denial - (6-1)

Note: This item was withdrawn by the applicant.

**SUBJECT: REZONING – WATTS-HILLANDALE HISTORIC DISTRICT
OVERLAY (P04-08) – CITY OF DURHAM – EAST SIDE OF
BROAD STREET, NORTH SIDE OF WEST CLUB TO THE
NORTH, THE CITY WATERWORKS ON THE WEST AND
SOUTH OF ENGLEWOOD AVENUE TO THE SOUTH**

To receive public comments on rezoning Case P04-08 (Watts-Hillandale Historic District Overlay); and

To adopt an ordinance as amended amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by applying an overlay district on the described properties in the Watts-Hillandale neighborhood.

Planning Department Recommendation: Approval

Zoning Committee Recommendation: Approval (7-0)

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing.

Proponent

Tom Miller, representing Watts Hospital-Hillandale Neighborhood Association, spoke in support of this rezoning matter. He made comments on the petition, outlined groups that have endorsed this proposal and urged Council to approve this item.

Weldon Cheek, representing Strawbridge Studios, noted a small portion of the Strawbridge Studios property in the back has been included in the overlay and requested

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that the parcel be removed from this proposal on the southwest border at the end of Englewood Avenue. Also, Mr. Cheek noted he is not in opposition to what the association is doing.

Council Member Brown asked Mr. Miller what would be the impact of deleting the small parcel.

Tom Miller noted while he would like for the historic district overlay to have the boundaries conterminous with the National Register of the Historic District, removal of this one property would not be fatal.

Frank Duke noted the deletion of one parcel from the overlay would not be a significant change.

Council Member Catotti asked what is being planned for the future.

Weldon Cheek noted we don't have any plans for any type of construction.

City/County Planning Director Frank Duke noted any revisions to the structure that is located within the overlay would require a certificate of appropriateness.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on rezoning Case P04-08 (Watts-Hillandale Historic District Overlay); and

To adopt an ordinance as amended amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by applying an overlay district on the described properties in the Watts-Hillandale neighborhood excluding the area [Strawbridge parcel] zoned general commercial south of Englewood Avenue was approved at 8:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REZONING MATTER CASE P03-21 – STONEYBROOK COTTAGES – PHASE II - STELIC ENTERPRISES, INC. – WEST OF COLE MILL ROAD, OPPOSITE FAISON STREET

To receive public comments on rezoning Case P03-21 (Stoneybrook Cottages - Phase II); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-21 out of R-20 and placing same in and establishing same as PDR 2.72.

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Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (6-0)

City/County Planning Director Frank Duke briefed Council on the staff report highlighting the committed elements relative to the maximum number of lots, minimum lot size, building height, all streets will be public and all units will have garages, tree coverage and open space. He noted there are no environmental impacts, gave an overview of traffic and school impacts and noted the proposal is consistent with the West – Northwest Durham Plan. Also, Mr. Duke noted staff and the Zoning Committee have recommended approval.

Mayor Bell opened the public hearing.

Proponent

Duane Stewart, representing the applicant, spoke in support of this rezoning request noting phase II is an extension of Phase I that was approved by Council a little more than two years ago. He noted the applicant has worked with staff, the neighborhood and any outstanding issues have been resolved and urged Council to approve this rezoning.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to receive public comments on rezoning Case P03-21 (Stoneybrook Cottages - Phase II); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-21 out of R-20 and placing same in and establishing same as PDR 2.72 was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REZONING MATTER CASE P03-26 – STONE HILL ESTATES – DURHAM LAND ASSOCIATES, LLC – SOUTH OF FREEMAN ROAD, EAST OF CLAYTON ROAD, NORTH OF NC 98

To receive public comments on rezoning Case P03-26 (Stone Hill Estates); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-26 out of R-20 and R-10 and placing same in and establishing same as R-10(D); F/J-B.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Denial - (6-1)

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City/County Planning Director Frank Duke briefed Council on the staff report. He made comments on the development plan and the committed elements highlighting the maximum number of dwelling units, minimum lot size 5,000 square feet, no mass grading within the subdivision, reduced-lot open space, trail system, mulching Panther Creek trail, dedication of a right-of-way along Freeman Road, along future Northern Durham Parkway and along Highway 98 with that commitment coming prior to the issuance of building permits, construction of left turn lane into the site at the Freeman Road entrance. He noted the proposal is consistent with the Northeast Durham Plan, environmental issues have been addressed, Mineral Springs Road is overcapacity and outlined school impacts. He noted staff is recommending approval and the Zoning Committee recommended denial based on small lot sizes associated with clustering.

Mayor Bell opened the public hearing.

Proponents

Attorney Drew Marsh, representing the applicant, spoke in support of this rezoning request. He noted the net effect of this rezoning will be an additional 47 lots since 140 have already been rezoned within the development, briefed Council on the neighborhood meeting held back in August to address the open space issue. He noted the smallest lot size will be 8,000 square feet in this development and the developer has committed to an investment of half million dollars relative to school impacts.

Council Member Brown asked for clarification on the number of lots (187).

Ron Horvath, representing the applicant, noted the site plan that was approved last year was for 140 lots and the applicant is adding another 47 lots at the back of the project.

Mayor Bell made comments on the road capacity.

Council Member Catotti asked the City Attorney regarding the status of the case regarding impact fees.

Assistant City Attorney Baker noted the case is ongoing.

Attorney Marsh noted his applicant is not a party to the lawsuit.

Council Member Catotti noted if HBA's lawsuit does succeed the applicant will not in effect be paying impact fees to offset the additional school.

Attorney Marsh noted that's fair.

Mayor Pro Tempore Cole-McFadden expressed concerns with traffic impacts.

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Council Member Brown discussed his site visit, expressed concern that there is no turning lane off of Mineral Springs Road and made comments about the tot lot.

Ron Horvath, representing the applicant, made comments regarding the meeting the applicant had with the neighborhood noting we had offered as an alternative to put a turn lane in on Mineral Springs Road, but they wanted to put the money towards some other improvements inside of landscaping and the offer is still on the table. He made comments on the left turn lane that will go in on Freeman into the development and noted during the site plan approval with NCDOT it will probably come up and the applicant we'll be doing a left turn at Mineral Springs and Freeman to make that traffic flow easier. He noted the applicant promised the neighbors that they would construct a tot lot or provide them funds for their tot lot if they allow us to join their association.

After discussion, Ron Horvath noted the applicant would be committing to constructing a left turn lane.

Council Member Catotti asked for clarification on the lot size.

Ron Horvath, representing the applicant, noted the applicant would commit to not going below 8,000 square feet as a committed element.

City/County Planning Director Frank Duke asked the applicant to clarify where the turn lane would be located.

Ron Horvath, representing the applicant, noted a northbound left-turn lane on Mineral Springs Road onto Freeman.

Opponents

Lavonia Allison, representing DCABP, spoke in opposition to this rezoning case citing concerns with moving the watershed overlay, increases in schools and traffic and the size of the lots.

Freddy Maisonet, of 11 Topaz Court, spoke in opposition to this rezoning expressing concern about the amount of traffic that is going to be developed based on the 187 new units. Also, he expressed school impacts and service delivery concerns.

Audrey Masionet, of 11 Topaz Court, spoke in opposition to this item expressing concern that the neighbors were given misinformation. She noted the area is not equipped to handle homes especially under the capacity that is being proposed when the neighboring shopping centers, schools and available public traffic cannot support it.

Rebuttal

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Ron Horvath, representing the applicant, made comments on the lot size and school issue. He noted the applicant would be committing to highway improvements at the intersection and discussed neighborhood concerns that have been addressed.

Attorney Drew Marsh, representing the applicant, noted this is a smart development and the developer has come in with significant improvements to the open spaces, minimum lot size (8,000 square feet) has been addressed, slight impact on schools. Also, he urged Council's approval of this request.

Freddie Maisonet expressed notification concerns and urged Council to allow him to go back to present this information to the neighborhood.

Council Member Catotti made comments on the school overcrowding.

Mayor Pro Tempore Cole-McFadden expressed concerns with school and traffic impacts.

Council Member Brown made comments on the misinformation and school impact fee.

Ron Horvath made comments on the open space issue, on the homeowners meeting last year where 50 to 60 people attended and the applicant took their concerns and re-sent the plan in January to the same listing asking them to get together to explain what the applicant is doing and the applicant got no response. Also, he noted the responses the applicant did receive they were very happy with what was done and made comments on the notification process.

Ron Horvath noted the applicant is committing to paying the current impact fee to the Board of Commissioners on behalf of the school for the 46 additional units if the impact fee case is lost.

Mayor Bell declared the public hearing closed.

City/County Planning Director Frank Duke reported on the three revisions to the committed elements: 1) Minimum lot size from 5,000 to 8,000 square feet; 2) Construction of northbound left turn lane on Mineral Springs Road onto Freeman; 3) Any impact fees associated with the increased number of units associated with this rezoning (46) should be left with Durham County for use by the school board regardless of the outcome of the ongoing litigation on impact fees.

Ron Horvath, representing the applicant, confirmed the three committed elements summarized by the Planning Director.

Council Member Clement noted schools would be under capacity if the rule was enforced that you attend the school within the district you live.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on rezoning Case P03-26 (Stone Hill Estates); and

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To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-26 out of R-20 and R-10 and placing same in and establishing same as R-10(D); F/J-B was approved at 9:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REZONING MATTER CASE P03-78 – CHELSEA MEADOWS – AEGIS GIBSON, LLC – SOUTHWEST CORNER OF MASSEY CHAPEL ROAD AND FAYETTEVILLE ROAD

To receive public comments on rezoning Case P03-78 (Chelsea Meadows); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-78 out of RD; F/J-B and placing same in and establishing same as PDR 3.07.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (4-3)

City/County Planning Director Frank Duke briefed Council on the staff report. He gave an overview of the committed elements discussing the number of units, lot size, buffer, open space, tot lot enclosed with a decorate fence, pedestrian connection and left-turn lane at Massey Chapel Road at the site entrance. He noted the proposal is consistent with the NC 54/I-40 small area plan, staff and the Zoning Committee recommended approval.

Mayor Bell opened the public hearing.

Proponents

Chuck Welsh, applicant, spoke in support of this rezoning case. He gave an overview of the unique characteristics of the site, addressed school concerns and outlined history of project. He made comments on the increase in lot size and lot width, reduced density, six acres of open space, buffer, appearance of existing pond, school impact and neighborhood meetings.

Edward Hwang, 1210 Carriboo Crossing representing Huntington Ridge Homeowners Association, spoke in support of this plan since the developer has agreed to the following committed elements: the pond will be preserved; minimum open space will be no less than the six areas, minimum lot size will be no less than 6,600 square feet; lots that abut or border the southern property line shared with Huntington Ridge will be no smaller than already shown on the site plan, no less than 30' buffer shown on the site plan, and commented on the shape and dimensions of the berm that will be agreeable to Huntington Ridge.

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No one spoke in opposition to this rezoning case.

Mayor Bell closed the public hearing.

City/County Planning Director Frank Duke noted he does not have the additions that Mr. Hwang referenced. Several of the issues Mr. Hwang mentioned are already committed elements.

Chuck Welsh, the applicant, noted they are already committed elements and the site plan has already been submitted to the City of Durham in accordance with this development plan which went to Development Review Board on Friday and everything that Mr. Hwang mentioned is on that site plan.

City/County Planning Director Frank Duke noted he does not have those as committed elements for this rezoning. He noted there has been a site plan filed that Council will see in May that does conform to this development plan with the lot dimensions.

Mayor Bell asked the maker and second of the motion if they accept the explanation and they replied yes.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on rezoning Case P03-78 (Chelsea Meadows); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-78 out of RD; F/J-B and placing same in and establishing same as PDR 3.07 was approved at 9:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: STREET CLOSING (SC03-06) - 1,125.88 LINEAR FEET OF TRAPP HILL PLACE WEST OF COLE MILL ROAD – STELIC ENTERPRISES, INC.

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Catotti to receive public comments; and

To adopt an ordinance permanently closing 1,125.88 linear feet (33,780 square feet) of Trapp Hill Place, west of Cole Mill Road was approved at 9:26 p.m. by the following

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vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12932

SUBJECT: STREET CLOSING (SC03-07) – 707.12 LINEAR FEET OF AN UNNAMED STREET WEST OF COLE MILL ROAD, SOUTH OF CHIPPERS WAY – STELIC ENTERPRISES, INC.

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments; and

To adopt an ordinance permanently closing 707.12 linear feet (21,207 square feet) in 2 sections of an unnamed street west of Cole Mill Road, south of Chippers Way was approved at 9:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12931

SUBJECT: MAJOR SPECIAL USE PERMIT (M03-04) – GROVE PARK FIRE STATION #8 – COULTER JEWELL THAMES, PA – SOUTHWEST CORNER OF HIGHWAY 98 AND LICK CREEK LANE (UNDER CONSTRUCTION)

To hold a quasi-judicial public hearing to consider a Major Special Use Permit for a 6,570 square foot, 24 foot high, fire station with 16 motor vehicle parking spaces and two bicycle spaces on a 1.5 acre site, for the City of Durham.

To direct the Planning Director to prepare an Order for adoption, for 1) approval, 2) approval with conditions or 3) denial, or to continue the hearing to a specified later meeting. (A draft Order for approval with staff-recommended conditions will be available at the meeting).

City Clerk D. Ann Gray swore in the following individuals: Frank Duke, Steve Medlin, Otis Cooper and Dan Jewell.

Mayor Bell explained the proceedings for a major special use permit hearing.

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The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come at the hearing tonight.

Mayor Bell asked the attorney for the applicant and for opponents or a representative to identify themselves.

Mayor Bell opened the public hearing.

Testimony from Staff

Steve Medlin, of the City/County Planning Department, requested the staff report and all attachments, exhibits and all amendments be entered as a part of the permanent record. He noted in the matter of Case M03-04, Coulter Jewell Thames, PA, on behalf of the City of Durham, proposes the construction of the Grove Park Fire Station (a.k.a. Durham Fire Station #8) at the southwest corner of NC 98 and Lick Creek Lane (currently under construction), with access to the station from Lick Creek Lane. He noted the proposed structure will be 6,570 square feet and 24 feet high (one story) with 16 parking spaces. He noted a plat shall be recorded dedicating 5.40 acres as a nitrogen easement area, required to offset nitrogen and impervious surfaces for this site and the neighboring proposed County Library and parking has been determined adequate by the Development Review Board, which recommended approval of the site plan on February 6, 2004.

Mr. Medlin stated as a reminder, Council must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance, that the proposed use is: 1) In harmony with the area and not substantially injurious to the value of properties in the general vicinity; 2) In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance; and 3) Will not adversely affect the health or safety of the public. He noted staff will provide a recommendation at the conclusion of testimony for this case.

The Mayor asked if there were questions for staff. There were no questions.

Testimony from Applicants

Dan Jewell, representing the Fire Department, made comments on the three findings of fact that Council must make. He noted the Fire Station is single story residential scale use that does not abut any existing or proposed homes and is well buffered from the adjacent properties. He noted the construction of this fire station and subsequent improvements in the response time to the emergency needs of eastern Durham will have a positive effect on the health and safety of the public.

Fire Chief Otis Cooper discussed why this Fire Station is needed and why this location was chosen. Fire Chief Cooper noted this station will provide much needed coverage in the eastern portion of the City, fire personnel for this station have been hired and providing coverage to that area from Fire Station #3. Also, he noted the new location

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will provide a timely response to this rapidly growing area, the Durham County Library will be on the lot adjacent to the fire station and will be a welcomed addition to the Oak Grove and Grove Park community.

The Mayor asked if there were questions for the applicants. There were no questions.

No one spoke in opposition to the major special use permit.

For clarification, City/County Planning Director Frank Duke noted when the Development Review Board reviewed the site plan associated with this item, they did not make any of the required findings [the Development Review Board determined the site does meet all the minimum standards of the ordinance] and noted the library adjoining the site has not yet been approved.

Staff Recommendation

Steve Medlin, of the City/County Planning Department, noted based upon the technical requirements of the Durham Zoning Ordinance, staff recommends approval subject to the following condition: The project shall be completed in accordance with the approved site plan, including any additional corrections and verifications.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt an order granting, upon certain conditions, a major special use permit for Fire Station #8 – Grove Park Case M03-04 was approved at 9:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12930

SUBJECT: MAJOR SITE PLAN (D03-421) – FIRE STATION #8 – GROVE PARK – CITY OF DURHAM – SOUTHWEST CORNER OF HIGHWAY 98 AND LICK CREEK LANE (UNDER CONSTRUCTION)

City/County Planning Director Frank Duke made comments on this item.

MOTION by Council Member Clement seconded by Council Member Stith to approve a major site plan for a proposed one-story, 6,570 square foot, 24 foot high fire station, with 16 motor vehicle parking spaces and two bicycle spaces on a 1.5 acre site, zoned PDR 1.6 and F/J-B was approved at 9:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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At this time during the meeting, Mayor Bell noted Council needs to revisit Item #27 [Two-Thirds Bonds] and asked for reconsideration of that matter in order to vote on each one of the items separately.

**SUBJECT: PUBLIC HEARING AND ADOPTION OF ORDERS
AUTHORIZING \$10,000,000 TWO THIRDS BONDS**

As stated previously during the meeting, Council Member Stith expressed concern that funds identified to handle the debt service would come out of the general fund noting citizens should have an opportunity to vote on these worthy projects and not continue to spend in the face of a significant deficit.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt an order authorizing \$6,800,000 Street Improvement Bonds was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Members Best and Stith. Absent: None.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt an order authorizing \$1,200,000 Parks and Recreation Facilities Bonds was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Members Best and Stith. Absent: None.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt an order authorizing \$1,000,000 Municipal Building Bonds was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Clement. Noes: Council Members Best and Stith. Absent: None.

MOTION by Council Member Catotti seconded by Council Member Clement to adopt an order authorizing \$500,000 Sanitary Sewer Bonds was approved at 9:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt an order authorizing \$500,000 Public Safety Communications Bonds was approved at 9:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

April 5, 2004

[SUPPLEMENTAL ITEM]

**SUBJECT: AMENDMENT OF NON-CITY AGENCY AGREEMENT FOR DOC
ARTS, INC., D/B/A FULL FRAME DOCUMENTARY FILM
FESTIVAL**

Alice Sharpe, of Economic & Employment Development, provided background information on this item.

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to amend the Non-City Agency Agreement with Doc Arts, Inc., d/b/a Full Frame Documentary Film Festival through increasing funding by \$15,000 was approved at 9:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Stith. Noes: Council Member Clement. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:47 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk